



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,630	10/29/2003	Charles Mizrahi	WIESNER 3.0-010	7338

7590 01/24/2008
EZRA SUTTON, P.A.
PLAZA 9, 900 ROUTE 9
WOODBIDGE, NJ 07095

EXAMINER

HUSON, MONICA ANNE

ART UNIT	PAPER NUMBER
----------	--------------

1791

MAIL DATE	DELIVERY MODE
-----------	---------------

01/24/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/697,630

Applicant(s)

MIZRAHI ET AL.

Examiner

Monica A. Huson

Art Unit

1791

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-19 and 24-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-19 and 24-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 24-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilpan (U.S. Patent 2,315,759). Regarding Claims 24 and 27, Wilpan shows that it is known to carry out a method of forming a sole for footwear, comprising the steps of: a) forming at least one inner sole (Figure 2, element 22); b) forming at least one outer sole including at least partially impregnating a rubber-free, woven natural textile material into at least a portion of at least one surface of the at least one inner sole so that only the textile material is exposed on an outer surface of the sole corresponding to the portion, the outer surface corresponding to an exterior peripheral face of the sole (Figure 2, element 18; Column 2, lines 3-42); and c) providing said the portion into which the outer sole is partially impregnated with said woven natural textile material corresponding to less than the entire at least one surface of the inner sole so that only the inner sole is exposed on the outer surface of the sole corresponding to a remaining portion of the sole (Figure 2, element 22, 18).

Regarding Claims 25 and 28, Wilpan shows the process as claimed as discussed in the rejection of Claims 24 and 27 above, including a method wherein the inner sole includes a blend of woven fibers (Figure 2, element 22).

Regarding Claims 26 and 29, Wilpan shows the process as claimed as discussed in the rejection of Claims 24 and 27 above, including a method wherein the outer sole includes a blend of woven fibers (Figure 2, element 18).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary

skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corcoran et al. (U.S. Patent 3,522,340), in view of Armor (U.S. Patent 2,121,678). Regarding Claims 15 and 19, Corcoran et al., hereafter "Corcoran," show that it is known to carry out a method of forming a sole for footwear (Abstract), comprising the steps of forming at least one inner sole by delivering a thermoplastic material into a mold (Column 2, lines 26-32; Column 3, lines 53-56); and providing the outer sole material into the mold before delivering the thermoplastic material into the mold (Column 2, lines 26-32). Corcoran does not show impregnating a textile material to form an outer sole or removing excess textile material after the impregnating step. Armor shows that it is known to carry out a method of forming a footwear sole including at least partially impregnating a textile material into at least a portion of at least one surface of at least one inner sole to form an outer sole thereof (Column 4, lines 8-25), and removing the excess textile material after said impregnation step (Column 3, lines 12-17; also applies to conforming the shape of the textile material to the shape of the inner sole- see Claim 19). It would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to follow Armor's impregnation and trimming steps during Corcoran's molding process in order to form a strong bond between the molded material and the outer sole material and in order to form a sole without strings or misshapen sole material.

Regarding Claim 16, Corcoran shows the process as claimed as discussed in the rejection of Claim 15 above, but he does not show using a rubber material for the inner sole. Armor shows that it is known to carry out a method wherein the at least one inner sole is formed of a rubber material (Column 2, lines 21-24; Column 3, lines 1-5). It would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to use Armor's rubber material as the inner sole material in Corcoran's molding process in order to provide excellent cushioning in the inner sole.

Regarding Claim 17, Corcoran shows the process as claimed as discussed in the rejection of Claim 15 above, including a method wherein the at least one inner sole is formed of a thermoplastic material (Column 2, lines 53-56), meeting applicant's claim.

Regarding Claim 18, Corcoran shows the process as claimed as discussed in the rejection of Claim 15 above, but he does not show applying heat and pressure during the impregnation. Armor shows that it is known to carry out a method wherein the impregnation step includes the substep of applying heat to at least partially melt the at least one surface of at least one inner sole to at least partially impregnate the textile material therein (Column 3, lines 1-10). It would have been prima facie obvious to one of ordinary skill in the art at the

time the invention was made to use Armor's heat during Corcoran's molding process in order to insure a strong bond between the molded material and the outer sole material.

Response to Arguments

Applicant's arguments with respect to claims 15-19 and 24-29 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

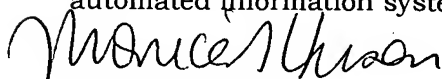
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monica A. Huson whose telephone number is 571-272-1198. The examiner can normally be reached on Monday-Friday 7:00am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on 571-272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Monica A Huson

January 21, 2008